

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

)
MIRIAM LOWELL and SETH HEALEY,)

Plaintiffs,)

v.)

VERMONT DEPARTMENT OF)
CHILDREN AND FAMILIES (“DCF”);)
KENNETH SCHATZ, COMMISSIONER,)
DCF; KAREN SHEA, DEPUTY)
COMMISSIONER FOR THE FAMILY)
SERVICES DIVISION (“FSD”), DCF;)
CHRISTINE JOHNSON, DEPUTY)
COMMISSIONER FOR FSD, DCF;)
EMILY CARRIER, DISTRICT)
DIRECTOR, DCF; CATHERINE CLARK,)
DIRECTOR, COMMISSIONER’S)
REGISTRY REVIEW UNIT, DCF;)
KATHLEEN SMITH, FAMILY)
SERVICES SUPERVISOR, DCF;)
CHRISTINE GADWAH, FAMILY)
SERVICES WORKER, DCF;)
KATHLEEN GREENMUN,)
SUBSTANTIATION HEARING OFFICER,)
DCF; and JOHN AND JANE DOES 1-10,)

Defendants.)

Civil Action No.: 5:19-cv-150

PLAINTIFFS’ STATUS REPORT AS TO ADMINISTRATIVE REVIEW PROCESS

The Court has asked for a status report on the administrative proceeding. *See* ECF No. 54.

The proceeding has not occurred. The administrative body, the Commissioner’s Registry Review Unit (“CRRU”), has sought to schedule it. Plaintiffs have asked for the proceeding to be conducted according to certain basic processes, like the ability to examine witnesses, review the

evidence available, and use basic rules of evidence like avoiding third- and fourth-level hearsay. The CRRU has refused. The CRRU has indicated that it will unilaterally schedule the proceeding at some point in the near future.

Plaintiffs have prepared for that by preparing to seek an injunction in a state court. They have consulted with counsel for the CRRU about a process for reviewing the complaint and motion to avoid surprise and allow for a schedule that is not unduly exigent or stressful. Plaintiffs have not yet presented that draft due to some complexity in the pleading and some other urgent matters. They expect to do so in the coming several weeks, in any event before any unilaterally scheduled proceeding.

The complexity has to do with data and facts. There are numerous witnesses who can and will testify that they lost their jobs, lost custody of their children, or have been stigmatized by former employers or others based on false findings at the agency level. In a clear majority of cases that Plaintiffs have access to, where there have been findings of “child abuse” at the agency level, the case has been dismissed or won at the Human Services Board (“HSB”). Some of these cases exemplify a serious lack of due process. In one, to be dismissed next week, the agency proceeding was convincing to the agency’s decisionmaker, with a Special Investigator talking about extensive recorded interviews suggesting sexual abuse that he had consulted as preparation. The HSB proceeding promptly revealed that there are no such recordings (and there was no abuse). Others have revealed that the documents that stated flat conclusions without any details (no one shows up on behalf of the State in many CRRU proceedings), that were favored over detailed first-person accounts, had literally no basis. Basic scrutiny and fairness suggest that many “findings” of child abuse by the agency process are false, but the correction comes long after the harm is done.

Plaintiff Miriam Lowell continues to work full-time in caregiving, and would be fired immediately if she were “substantiated” for child abuse. She and Seth Healey intend to bring an action in state court.

Respectfully submitted,

MIRIAM LOWELL and SETH HEALEY

By their attorneys,

By: /s/ Colin R. Hagan
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Dated: October 14, 2022

CERTIFICATE OF SERVICE

I, Colin R. Hagan, hereby certify that on October 14, 2022, the foregoing Plaintiffs' Status Report as to Administrative Review Process was served on all parties of record via CM/ECF.

/s/ Colin R. Hagan

Colin R. Hagan